

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MUTINTA MICHELO, KATHERINE SEAMAN,
MARY RE SEAMAN, AND SANDRA TABAR,
individually and on behalf of all others similarly situated,

Plaintiffs,

v.

NATIONAL COLLEGIATE STUDENT LOAN TRUST
2007-2; NATIONAL COLLEGIATE STUDENT LOAN
TRUST 2007-3; TRANSWORLD SYSTEMS, INC., in its
own right and as successor to NCO FINANCIAL
SYSTEMS, INC.; EGS FINANCIAL CARE INC.,
formerly known as NCO FINANCIAL SYSTEMS, INC.;
and FORSTER & GARBUS LLP,

Defendants.

No. 18-cv-01781-PGG

CHRISTINA BIFULCO, FRANCIS BUTRY, and CORI
FRAUENHOFER, individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

NATIONAL COLLEGIATE STUDENT LOAN TRUST
2004-2; NATIONAL COLLEGIATE STUDENT LOAN
TRUST 2006-4; TRANSWORLD SYSTEMS, INC., in its
own right and as successor to NCO FINANCIAL
SYSTEMS, INC.; EGS FINANCIAL CARE INC.,
formerly known as NCO FINANCIAL SYSTEMS, INC.;
and FORSTER & GARBUS LLP,

Defendants.

No. 18-cv-07692-PGG

**DECLARATION OF GREGORY T. CASAMENTO IN RESPONSE TO PLAINTIFFS’
REPLY IN FURTHER SUPPORT OF THEIR MOTION FOR CLASS CERTIFICATION**

I, Gregory T. Casamento, declare under the laws of the State of New York and the United States of America under penalty of perjury:

1. I am an attorney licensed to practice law in the State of New York and before the United States District Court for the Southern District of New York.

1. I am a partner of the law firm Locke Lord LLP, attorneys for defendants National Collegiate Student Loan Trust 2004-2 (the “2004-2 Trust”), National Collegiate Student Loan Trust 2006-4 (“the 2006-4 Trust”), National Collegiate Student Loan Trust 2007-2 (“the 2007-2 Trust”), and National Collegiate Student Loan Trust 2007-3 (the “2007-3 Trust”) (all, collectively, the “Trust Defendants”) in these consolidated actions and, as such, am fully familiar with the facts set forth herein.

2. I make this Declaration in response to the Declaration of Asher Hawkins in further support of Plaintiffs’ Motion for Class Certification, filed on September 13, 2021 (the “Hawkins Declaration”).

3. On or about March 13, 2020, the Trust Defendants produced certain documents in these actions, including a document labeled NCSLT_004724. That document was a Microsoft Excel spreadsheet with several tabs titled “Wire Instructions,” “Lender Payouts All,” “PHEAA,” “Great Lakes,” and “Roster.” The “Roster” tab included a large spreadsheet titled “National Collegiate Student Loan Trust 2007-2 – Roster: NATIONAL CITY BANK.” This tab represents the “Schedule” listing loans assigned from National City Bank to National Collegiate Funding LLC on June 14, 2007, which were subsequently assigned to the 2007-2 Trust, as referenced on the first page of the relevant Pool Supplement. (*See* Luke Decl., *Michelo* Dkt. 328, Ex. 1-A).

4. On March 16, 2020, Plaintiffs’ counsel, Asher Hawkins, emailed undersigned

counsel to inquire why the “load file that [the Trust Defendants] produced for [documents bearing bates numbers] NCSLT[_]003474-[NCSLT_004789],” did not include “text files,” for those documents. The documents about which Mr. Hawkins inquired were the “Schedules” for the relevant Trusts, including NSCLT_004724. In response, counsel for the Trust Defendants emailed Mr. Hawkins later that day, copying counsel of record for all parties, informing him:

the documents ... are Excel files that were produced in redacted form. The “.txt” files that correspond to those Excel files contained the text for the redacted sections of the native excel spreadsheets, so they were not included in the production. Metadata (created date, modified date, etc.) for these was instead produced and included in the “.dat” files, which reflect the metadata for those excel spreadsheets in their original form, before the redactions were made. Thus, we did in fact produce all files and metadata for this production.

A true and correct copy of this email exchange is attached hereto as **Exhibit A**.

5. The redactions made to the Schedules, including NCSLT_004724, were made by certain employees of Locke Lord after they were collected from the Trust Defendants and before the documents were produced to counsel in order to protect the identities and personally identifiable information (“PII”) of borrowers with loans in the relevant Trusts, including those borrowers’ Social Security Numbers (“SSN’s”) who were not named Plaintiffs. Redactions were also made to protect Plaintiffs’ PII, including their SSN’s. Thus, on NCSLT_004724, all but the last four digits of Plaintiff Tabar’s SSN was redacted.

6. An error in the process of redacting NCSLT_004724 resulted in the last four digits of Plaintiff Tabar’s SSN being transposed. Instead of reading “REDACTED2466,” the process resulted in the information in the relevant column and row on the spreadsheet (Cell E240) instead reading “REDACTED2446.”

7. On January 29, 2021, counsel for TSI, James Schultz, informed counsel for the

Trust Defendants that he had recently spoken with Plaintiffs' counsel, Gregory Frank, who had informed Mr. Schultz that Plaintiffs' counsel had discovered the transposing error to the redaction of Plaintiff Tabar's SSN on NCSLT_004724.

8. On February 3, 2021, Mr. Schultz informed counsel for the Trust Defendants that he had spoken again with Mr. Frank and explained the redaction error. Mr. Schultz also informed counsel for the Trusts that he had told Mr. Frank that the Trust Defendants would produce a replacement document with the redaction error corrected.

9. On February 8, 2021, counsel for the Trust Defendants reproduced NCSLT_004724 by email, correcting the redaction error. The cover email to Plaintiffs' counsel stated that the "document serves as a replacement for NCSLT_004724, which was previously produced by the Trust Defendants." A true and correct copy of the email sent to Plaintiffs' counsel is attached hereto as **Exhibit B**.

10. The replacement document that the Trust Defendants produced on February 8, 2021 is identical to the document as originally produced on March 13, 2020, but corrects the redaction error on the previously produced document. Plaintiff Tabar's SSN (Cell E240) on the reproduced document reads "REDACTED2466."

11. Neither Mr. Frank nor any of his co-counsel contacted counsel for the Trust Defendants regarding NSCLT_004724 or the redaction error, either before or after the replacement document was produced.

Executed this 13th day of October, 2021.

/s/ Gregory T. Casamento
Gregory T. Casamento

EXHIBIT A

From: Braunstein, Andrew
Sent: Tuesday, March 17, 2020 10:57 AM
To: Asher Hawkins; Ruggiero, Lisa Ann
Cc: Morgan I. Marcus; DeRose, R.J; Casamento, Greg; Fontenelli, Christopher; Amanda Gurman; Carol A. Lastorino; EXTERNAL - B Shartle; Aaron Easley; Goodin, Matthew; EXTERNAL - J Schultz; Kramer, Jeffrey; Gregory Frank; Marvin Frank
Subject: RE: Bifulco et al. v. NCSLT 2004-2 et al. (No. 18-cv-7692) | Michelo et al v. NCSLT 2007-2 et al. (No. 18-cv-1781) -- Trusts' Discovery Deficiencies

Asher,

As you know, the documents about which you raise the questions below are Excel files that were produced in redacted form. The “.txt” files that correspond to these Excel files contained the text for the redacted sections of the native excel spreadsheets, so they were not included in the production. Metadata (created date, modified date, etc.) for these was instead produced and included in the “.dat” files, which reflect the metadata for those excel spreadsheets in their original form, before the redactions were made. Thus, we did in fact produce all files and metadata for this production.

Please let us know if you have any additional questions.

Andrew Braunstein
646-217-7879 Direct
andrew.braunstein@lockelord.com

From: Asher Hawkins
Sent: Monday, March 16, 2020 12:07 PM
To: Braunstein, Andrew ; Ruggiero, Lisa Ann
Cc: Morgan I. Marcus ; DeRose, R.J ; Casamento, Greg ; Fontenelli, Christopher ; Amanda Gurman ; Carol A. Lastorino ; Shartle, Bryan ; Aaron Easley ; Goodin, Matthew ; James K. Schultz ; Kramer, Jeffrey ; Gregory Frank ; Marvin Frank
Subject: RE: Bifulco et al. v. NCSLT 2004-2 et al. (No. 18-cv-7692) | Michelo et al v. NCSLT 2007-2 et al. (No. 18-cv-1781) - Trusts' Discovery Deficiencies

Andrew:

The load file that you provided for NCSLT '3474-4789 says that your production should include the following text files:

- VOL0001\OCR\0001\NCSLT_003474_CONFIDENTIAL.txt
- VOL0001\OCR\0001\NCSLT_003475_CONFIDENTIAL.txt
- VOL0001\OCR\0001\NCSLT_004724_CONFIDENTIAL.txt
- VOL0001\OCR\0001\NCSLT_004725_CONFIDENTIAL.txt

Your OCR file for NCSLT '3474-4789 includes the following “.txt” files, for which there are no corresponding files in the load.

NCSLT_003476.txt
NCSLT_004726.txt
NCSLT_004779.txt
NCSLT_004784.txt

Please produce complete files and metadata for NCSLT '3474-4789, and explain why you did not do so Friday.

Best,
Asher

Asher Hawkins
FRANK LLP
370 LEXINGTON AVENUE, SUITE 1706
NEW YORK, N.Y. 10017
tel. 212 682 1852
fax. 212 682 1892
ahawkins@frankllp.com
www.frankllp.com

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From: Braunstein, Andrew <Andrew.Braunstein@lockelord.com>
Sent: Friday, March 13, 2020 8:29 PM
To: Asher Hawkins <ahawkins@frankllp.com>; Ruggiero, Lisa Ann <Lisa.Ruggiero@lockelord.com>
Cc: Morgan I. Marcus <mmarcus@sessions.legal>; DeRose, R.J <RDeRose@lockelord.com>; Casamento, Greg <GCasamento@lockelord.com>; Fontenelli, Christopher <Christopher.Fontenelli@lockelord.com>; Amanda Gurman <Amanda.Gurman@rivkin.com>; Carol A. Lastorino <Carol.Lastorino@rivkin.com>; Shartle, Bryan <bshartle@sessions.legal>; Aaron Easley <aeasley@sessions.legal>; Goodin, Matthew <JMGoodin@lockelord.com>; James K. Schultz <jschultz@sessions.legal>; Kramer, Jeffrey <JKramer@lockelord.com>; Gregory Frank <gfrank@frankllp.com>; Marvin Frank <mfrank@frankllp.com>
Subject: RE: Bifulco et al. v. NCSLT 2004-2 et al. (No. 18-cv-7692) | Michelo et al v. NCSLT 2007-2 et al. (No. 18-cv-1781) - Trusts' Discovery Deficiencies

The password to access the prior production is:

Best,

Andrew Braunstein
Associate
Locke Lord LLP
Brookfield Place
200 Vesey Street, 20th Floor
New York, NY 10281
646-217-7879 Direct
908-229-7683 Mobile
212-812-8368 Fax
andrew.braunstein@lockelord.com
View My [BIO](#) | Connect on [LinkedIn](#) | Visit lockelord.com

EXHIBIT B

From: Braunstein, Andrew
Sent: Monday, February 8, 2021 5:49 PM
To: 'Asher Hawkins'; Gregory Frank; Marvin Frank
Cc: 'Carol A. Lastorino'; DeRose, R.J; Ruggiero, Lisa Ann; EXTERNAL - B Shartle; Aaron Easley; 'Amanda Gurman'; Morgan I. Marcus; EXTERNAL - J Schultz; Casamento, Greg; Ken Novikoff; Goodin, Matthew; Fontenelli, Christopher
Subject: Michelo et al v. NCSLT 2007-2 et al. (No. 18-cv-1781) | Bifulco et al. v. NCSLT 2004-2 et al. (No. 18-cv-7692)

Counsel:

Below is a link to a secure folder containing a document produced by the Trust Defendants in the above-referenced action. This document serves as a replacement for NCSLT_004724, which was previously produced by the Trust Defendants.

<https://lockelord.box.com/s/vpphc7ua9zsv9s8me8eoca6026wlvfz>

A password to access the production will follow shortly under separate cover.

Andrew Braunstein

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New York, NY 10281

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